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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,254	06/26/2006	G. Eric Engstrom	120083-137147	1806

60172 7590 04/02/2010  
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1420 FIFTH, SUITE 3010  
SEATTLE, WA 98101

EXAMINER
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DOAN, KIET M

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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04/02/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/551,254	<b>Applicant(s)</b> ENGSTROM, G. ERIC	
	<b>Examiner</b> KIET DOAN	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/28/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This office action is in response to Pre-Brief Appeal Conference decision on 03/10/2010, the previous finality on 11/02/2009 is withdrawn. However, this new action is made Final based on the applicant amendment filed on 07/09/2009.

### *Response to Arguments*

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohinata et al. (US 6,788,928 B2) in view of Chainer et al. (US 6,957,337 B1)

Regarding **claims 1, 7, 12 and 15**, Kohinata teaches a wireless mobile phone comprising:

processor (Fig.1, operation control unit 12);

a transceiver coupled to the processor to facilitate wireless telephony communication by the user (Fig.1, transceiver unit 7);

a plurality of sensors to facilitate real time capturing profile of a user from the user's hand (Col.4, lines 31-39, teach temperature obtaining unit 15 contain by plurality of sensors arranged on the surface of cellular phone that capturing the body temperature of the user when touch by the palm or finger of the hand of the user, Col.4, lines 40-64, fig.1 show temperature compare unit 16 that compares the data measure by unit 15 with the data store in the storage unit 14).

**Kohinata fails to explicitly teach**

operating logic to receive the real time captured heart beat profile of the user and to selectively operate the components depending on whether the user is successfully authenticated via a real time captured heart beat profile of the user.

In an analogous art, **Chainer teaches** operating logic to receive the real time captured heart beat profile of the user and to selectively operate the components depending on whether the user is successfully authenticated via a real time captured heart beat profile of the user (Abstract, Col.4, lines 35-50, Col.6, lines 20-67, fig.3 and fig.4 show and teach the device contain heart beat sensor (col.6, line 46) that capture biometric data than transmit to processor 120 wherein the comparison with the data stored in the storage unit).

Therefore, it would have been obvious at the time that the invention was made to modify Kohinata with Chainer's system such that wireless mobile phone with plurality of sensors for capturing heart beat of the user hand and authenticated via real time captured heart beat of the user in order to provide secure and safeguard for mobile wireless phone without access by unauthorized user.

Regarding **claims 2 and 8**, the combination of Kohinata and Chainer teach the wireless mobile phone of claim 1 and 7, further Chainer teaches wherein the operating logic further comprises logic to compare the real time captured heart beat profile of the user against a reference heart beat profile (Col.6, lines 20-67, fig.3 and fig.4 illustrate and described).

Regarding **claims 3 and 9**, the combination of Kohinata and Chainer teach the wireless mobile phone of claim 1 and 7 further Chainer teaches wherein the operating logic further comprises logic to save the real time captured heart beat profile of the user as a reference heart beat profile for authentication (Col.6, lines 51-62 teach processor that stored data for compare with data capture).

Regarding **claims 4 and 10**, the combination of Kohinata and Chainer teach the wireless mobile phone of claim 1 and 7, further Chainer teaches wherein the wireless mobile phone further comprises a reader to facilitate provision of the reference heart beat profile via an identity card (Col.4, lines 3-25).

Regarding **claim 5**, the combination of Kohinata and Chainer teach the wireless mobile phone of claim 4, further Chainer teaches wherein the reference heart beat profile is stored on said identity card in a manner to be read by a reader selected from the reader group consisting of an electronic reader, an optical reader, and a magnetic

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reader, and the wireless mobile phone further comprises the selected reader (Col.4, lines 3-34, Col.5, lines 36-48).

Regarding **claims 6 and 11**, the combination of Kohinata and Chainer teach the wireless mobile phone of claim 1 and 7 further Chainer teaches wherein the wireless mobile phone further comprises a reader to facilitate retrieval of the reference heart beat profile from a storage, the storage removably attached to the wireless mobile phone (Col.5, lines 25-60, Col.6, lines 50-56).

Regarding **claims 13 and 16**, the combination of Kohinata and Chainer teach the wireless mobile phone of claim 12 and 15 further Chainer teaches wherein the operating logic enables the processor to provide first one or more functions, including a function to retrieve a heart beat profile from a storage removably attached to the wireless mobile phone, while operating the components in said first mode, and further enables the components to provide second additional one or more functions, while operating the processor in said second mode (Col.6, lines 35-62, fig.3 Illustrate)

Regarding **claims 14**, the combination of Kohinata and Chainer teach the wireless mobile phone of claim 13 and 15, further Chainer teaches wherein the heart beat of the user to be authenticated is captured from the user's hand by a sensor positioned along the periphery of the wireless mobile device (Col.6, lines 36-46).

Regarding **claim 17**, the combination of Kohinata and Chainer teach the method of claim 15, further Chainer teaches wherein the heart beat input of the user to be authenticated is captured automatically by the sensor upon power-up (Col.4, lines 30-50, Col.6, lines 44-56).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIET DOAN whose telephone number is (571)272-7863. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kiet Doan/  
Examiner, Art Unit 2617

/Charles N. Appiah/  
Supervisory Patent Examiner, Art Unit 2617



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